

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 36350

STATE OF IDAHO,	)	2010 Unpublished Opinion No. 489
	)	
Plaintiff-Respondent,	)	Filed: May 28, 2010
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
MARIE GERHARDT,	)	THIS IS AN UNPUBLISHED
	)	OPINION AND SHALL NOT
Defendant-Appellant.	)	BE CITED AS AUTHORITY
	)	

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Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. G. Richard Bevan, District Judge.

Order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Stephen D. Thompson, as contract counsel for the State Appellate Public Defender, Ketchum, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

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Before LANSING, Chief Judge; GRATTON, Judge;  
and MELANSON, Judge

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PER CURIAM

Marie Gerhardt pled guilty to felony operating a motor vehicle while under the influence of alcohol. Idaho Code §§ 18-8004, 18-5005(7). The district court sentenced Gerhardt to a unified term of nine years with three years determinate, suspended the sentence, and retained jurisdiction. Following the period of retained jurisdiction, the district court relinquished jurisdiction. Gerhardt filed an Idaho Criminal Rule 35 motion, which the district court denied. Gerhardt appeals asserting that the district court abused its discretion by denying her Rule 35 motion.

A motion for reduction of sentence under I.C.R. 35 is essentially a plea for leniency, addressed to the sound discretion of the court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d

23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). Upon review of the record, including the new information submitted with Gerhardt's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Gerhardt's Rule 35 motion is affirmed.